

Case Summary

Rachel Meriwether appeals the denial of her motion to suppress. We affirm.

Issue

Meriwether raises one issue, which we restate as whether the trial court properly denied her motion to suppress.

Facts

On May 23, 2008, at 3:40 a.m., Evansville police officers Nick Winsett and Skyler Ford responded to a call of shots fired at a nearby gas station. When they arrived in the vicinity of the gas station, they noticed a line of cars heading away from the gas station. Believing that the cars were driven by people leaving the scene of the shooting, the officers were looking for suspicious activity. They observed a car driven by Meriwether “abruptly” turn into a parking lot without signaling. The officers followed the car into the parking lot and parked behind it. They got out of their squad car and approached Meriwether’s car. In the car, Meriwether was accompanied by two male passengers. A warrant check was conducted on Meriwether and the passengers. Although they had no outstanding warrants, all three had prior drug-related convictions.

The officers asked Meriwether to get out of the car and asked her if there was “anything in the vehicle [they] needed to know about.” Tr. p. 8. Meriwether responded, “No, if you need . . . if you want to go through the car that’s fine, go ahead and look through it.” Id. During the search, Officer Ford observed Meriwether’s purse “on the driver’s side floorboard in front of the seat.” Id. at 33. The purse was open, and Officer Ford could see a black object in a plastic bag that he could see through. Officer Ford

picked up the purse and noticed it was heavy. He believed the object in the purse was a handgun. Officer Ford removed the plastic bag and opened it. The plastic bag contained a handgun and bullets.

Meriwether was charged with Class A misdemeanor carrying a handgun without a license, two counts of Class D felony possession of a controlled substance, and Class A misdemeanor possession of marijuana. Based on Meriwether's prior convictions, the handgun charge was enhanced to a Class C felony and the marijuana charge was enhanced to a Class D felony.

On June 3, 2008, Meriwether filed a motion to suppress claiming in part that her consent to search was not valid. Following a hearing, the trial court denied Meriwether's motion to suppress. She now appeals.

Analysis

Meriwether argues that the trial court improperly denied her motion to suppress because she did not consent to the search of her purse. In reviewing the denial of a motion to suppress, we consider the evidence favorable to the trial court's ruling, as well as substantial uncontradicted evidence to the contrary, to decide whether the evidence is sufficient to support the ruling. Holder v. State, 847 N.E.2d 930, 935 (Ind. 2006).

The Fourth Amendment to the United States Constitution¹ protects people from unreasonable searches and seizures. Lander v. State, 762 N.E.2d 1208, 1211 (Ind. 2002). "The Fourth Amendment has been made applicable to the states through the Fourteenth Amendment." Id. "Generally, a search warrant is a prerequisite to a constitutionally

¹ Meriwether does not challenge the search under the Indiana Constitution.

proper search and seizure.” Halsema v. State, 823 N.E.2d 668, 676 (Ind. 2005). In a case involving a warrantless search, the State bears the burden of proving an exception to the warrant requirement. Id. “A valid consent is such an exception.” Id.

“The standard for measuring the scope of a suspect’s consent under the Fourth Amendment is that of ‘objective’ reasonableness-what would the typical reasonable person have understood by the exchange between the officer and the suspect?” Florida v. Jimeno, 500 U.S. 248, 251, 111 S. Ct. 1801, 1803-04 (1991). “A suspect may of course delimit as he chooses the scope of the search to which he consents. But if his consent would reasonably be understood to extend to a particular container, the Fourth Amendment provides no grounds for requiring a more explicit authorization.” Id. at 252, 111 S. Ct. at 1804. Said another way, if police wish to search closed containers within a car, they need not separately request permission to search each container. See id., 111 S. Ct. at 1804.

Meriwether argues that although she consented to the search of her car, the State failed to establish that she also consented to the search of her purse located inside the car. Indeed, Meriwether did not explicitly consent to the search of her purse, and she argues that her case is like Sallee v. State, 785 N.E.2d 645, (Ind. Ct. App. 2003), trans. denied. In that case, a police officer obtained Sallee’s consent to search a truck. During the search, the police officer opened a closed purse located in the truck. A panel of this court noted that the police officer did not provide any indication of what the object of the search was at the time he secured the consent. Sallee, 785 N.E.2d at 656. We held that without such information, we could not make a determination about the objective

reasonableness of opening a closed purse and concluded that the State failed to show that Pierce consented to the search of her purse. Id.

Although Meriwether's claim is similar to Sallee's, one significant fact distinguishes the cases. In Sallee, the investigating officer "opened" Sallee's purse and searched it. Id. at 655. Here, although Meriwether claims that the handgun was not in plain view, Meriwether's purse was open, and Officer Ford saw a black object in a "see through" plastic bag at the top of the purse. Tr. p. 33. Officer Ford picked up the purse and noticed it was heavy. At that point, Officer Ford believed the object in the purse was a handgun. Officer Ford removed the plastic bag and confirmed that it contained a handgun. Under these circumstances, Meriwether's purse was not a closed container separately searched by Officer Ford.²

It was objectively reasonable for Officer Ford to conclude that Meriwether's general consent to search her car included observing the visible contents of an open purse and even handling the purse. Based on these facts, the State established that the search was conducted within the scope of Meriwether's consent to search.

Conclusion

The trial court properly denied Meriwether's motion to suppress. We affirm.

Affirmed.

BAILEY, J., and MATHIAS, J., concur.

² The State even acknowledges, "If the purse had been closed, it might be reasonable to infer that the scope of the search of the car did not include the search of an unopened purse based on the conversation between police and Defendant." Appellee's Br. p. 7.